

**Notice of Allowability**

Application No.

10/647,072

Applicant(s)

KROCZEK, RICHARD

Examiner

ILIA OUSPENSKI

Art Unit

1644

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/2/2007.
2. ☒ The allowed claim(s) is/are 78-82, renumbered 1-5.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/509,283.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>7/19/2007</u> |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>5/2/2007</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                   | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|  | 9. <input type="checkbox"/> Other _____   |

### DETAILED ACTION

1. Applicant's amendment and remarks, filed on 05/02/2007, are acknowledged.

Claims 1 – 76 have been cancelled.

**Claims 77 – 82 are pending.**

2. Applicant's Declaration by Dr. Richard KroczeK under 37 CFR 1.132 is acknowledged, and has been considered.

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given by Muna Abu-Shaar on behalf of Nikolaos George in a telephone interview with the Examiner on 07/19/2007.

#### ***Examiner's Amendment***

##### In the Specification:

4. The TITLE has been replaced with -- TREATMENT OF AUTOIMMUNE DISORDERS WITH ANTIBODIES TO COSTIMULATING POLYPEPTIDE OF T CELLS

--

In the Claims:

5. Claim 77 has been cancelled.
6. In claim 78, the phrase "DSMZ" has been replaced with -- Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH ("DSMZ") --
7. In claims 79 – 82, the phrase "The method of claim 77 or 78" has been replaced with -- The method of claim 78 --

***Reasons for Allowance***

8. The following is an Examiner's Statement of Reasons for Allowance:

The Examiner's Amendment set forth supra, in conjunction with Applicant's amendment and arguments filed on 05/02/2007, and declaration filed under 37 CFR1.132 by Dr. Richard Kroczeck, have obviated the previous rejection of record, mailed 11/03/2007.

***Claims 78 – 82 are pending and allowed.***

The prior art does not teach or suggest the claimed methods of treating autoimmune diseases.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ILIA OUSPENSKI, Ph.D.

Patent Examiner

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July 19, 2007

*Phillip Gambel*  
PHILLIP GAMBEL, PH.D. *JD*  
PRIMARY EXAMINER  
*TZ1600*  
*7/20/07*